



Common questions and answers about the proposed revisions to the statewide shoreland zoning standards

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This fact sheet is designed to help waterfront property owners and other people who enjoy Wisconsin lakes and streams understand the proposed revisions to the state shoreland zoning standards (NR 115).

General background

What are shorelands and why are they important?

Shorelands are lands that are within 1000 feet of a lake, pond or flowage, and land within 300 feet of the floodplain of a river or stream. Development and land disturbing activities in shorelands directly affect the quality of our lakes and streams.

Why are we revising the shoreland zoning standards?

After Wisconsin's minimum shoreland zoning standards were revised in 2010, some counties identified some provisions that are unclear or burdensome to implement. The proposed rule language clarifies and reduces the administrative burden that resulted from some standards in the current rule. Generally, Counties, cities, villages and towns may adopt zoning standards that are more protective than the statewide minimum shoreland standards.

Will the standards for the shoreland setback or minimum lot size change?

The department is not proposing to change the shoreland zoning standards for shoreland setback, lot sizes, filling and grading and shoreland-wetland zoning and fall outside of the scope of the current rulemaking process.

Are the requirements in NR 115 a new law and when will they take effect?

No. Counties have been following a state law requiring minimum development standards along shorelines since 1968. If the legislature and governor approve the proposed changes to the shoreland zoning standards, counties must then incorporate the most current NR 115 laws into their local ordinances within two years and continue to implement and enforce the county ordinances.



There are many other sources of pollutants to lakes. Is NR 115 the only law that controls impacts to water quality?

No. Shoreland property owners in unincorporated areas are not the only ones regulated to reduce impacts on water quality. Many other laws regulate activities that contribute to water quality problems in unincorporated and incorporated areas. Construction sites, agriculture, fertilizer use, and municipal and urban storm sewer systems are regulated by a variety of local, state and federal laws aimed at reducing the impacts to water quality. However, the Legislature intentionally created shoreland zoning to protect this sensitive area adjacent to water bodies.

How will revised shoreland protection rules affect my property values?

The main purpose of zoning is to protect property values. Studies in Wisconsin and Minnesota have shown that properties on lakes that have good water quality tend to have higher property values than those properties on lakes with poor water quality. While home size, improvements and views of the water are factors people often consider primary to property value, studies have also shown that clear water for fishing and swimming and the natural beauty associated with shoreland areas are also keys to enhancing a waterfront property's value.¹

What do I, a waterfront property owner, have to do when this law changes?

After the law passes, you won't have to do anything unless and until you want to make certain changes to your property, such as building an addition, constructing a patio or paving a gravel driveway. Then you may have to do a shoreland mitigation project.

What is shoreland mitigation and why do I need to do it?

Shoreland mitigation are practices that you install on your land to protect water quality and fish and wildlife habitat in your lake or river to offset potential development impacts when a property owner proposes changes to a property. Shoreland mitigation practices could include:

- preservation or restoration of a shoreland buffer,
- inspection and upgrading of the septic system (if necessary),
- installation of a rain garden or other infiltration device
- removal of other structures within 75 feet of the ordinary high water mark.

When is shoreland mitigation required?

The proposed changes to the rule would not change when shoreland mitigation is required. Activities that will trigger a requirement to do shoreland mitigation include exceeding impervious surface limits or expanding or reconstructing a nonconforming structure. No mitigation is needed for maintenance and repair of current structures. Overall, more options for development in the shoreland zone than the current law permits will be available with this system.

What is a rain garden?

Rain gardens are landscaped areas planted with wildflowers and other native vegetation. The gardens fill with a few inches of water during wet times and allow the water to slowly filter into the ground.

How do I know what I have to do for mitigation?

Counties have the flexibility to tailor mitigation methods to their area, such as rain gardens, restored vegetation buffers, removal of structures from setback, erosion control or use of inconspicuous building materials. Although mitigation is a familiar concept for some counties, the DNR has developed guidance to help counties develop a shoreland mitigation program.

¹ Spalatro, F. and B. Provencher. 2000. *Analysis of Minimum Frontage Zoning to Preserve Lakefront Amenities*. ⁴Pressing, J., D.W. Marcouiller, G.P. Green, S.C. Deller and N.R. Sumathi. 1996. *Recreational homeowners and regional development: A comparison of two Northern Wisconsin counties part 2* UW-Extension Staff paper.

Impervious surfaces

Driveways, rooftops, patios and other hard surfaces are known as impervious surfaces. An increase in the amount of impervious surface prevents water from soaking into the ground and increases the amount of stormwater runoff. More runoff causes: erosion and degraded streams, increased soil and pollutants entering waterbodies, increased algae growth, and fewer fish and insect species. When the impervious surface of the area draining to a stream exceeds 12%, degraded water quality and poor fisheries result.² When large shoreland buffers are present high quality fisheries can be maintained with impervious surfaces up to 15%.³

If we already exceed the impervious surface limits or would like to expand our home, outbuildings or driveway, how will the changes affect us?

You won't have to do anything. You may maintain and repair the existing impervious surfaces on your property and can replace or move around the impervious surfaces as long as you comply with any other county requirements. If you decide to add additional impervious surfaces to your property you will need to develop a shoreland mitigation project that would capture and absorb the runoff or show that the impervious surfaces are draining away from the lake or river or into a treatment device. If you are unable to direct the impervious surfaces on your property to a treatment device you would then need to apply for a variance.

Shoreland vegetation

Natural shoreland vegetation (trees, shrubs and ground cover) allow water to soak into the ground, decreasing and filtering stormwater runoff carrying fertilizers, pesticides and other pollutants to lakes and streams and reducing erosion and sedimentation. Food and shelter for fish, birds and wildlife are provided by the same natural shoreland vegetation that offers beautiful shorelines. While the 35 foot deep buffer will control sediment and nutrients in a small proportion of cases, a larger buffer is needed to prevent stormwater and bacteria from entering lakes and streams and to provide wildlife with food, shelter and a place to raise their young.⁴

How does this affect our lawn? Will we have to plant a natural buffer?

All current lawns and landscaping can stay as they are unless you make one of the following changes:

- Build additional hard surfaces like rooftops or driveways that exceed impervious surface limit
- Structurally expand a house that is too close to the water.

The county may also allow you to keep your lawn if you install other mitigation practices.

Will I need to get a permit if I want to remove poison ivy or a dead tree on my property?

No, the shoreland zoning standards do not require property owners to obtain a permit to remove exotic or invasive species, dead or diseased species or species that cause an imminent safety hazard.



² Wang, L., J. Lyons, P. Kanehl, R. Bannerman, and E. Emmons 2000. Watershed Urbanization and Changes in Fish Communities in Southeastern Wisconsin Streams. *Journal of the American Water Resources Association*. 36:5(1173-1187); Wang, L., J. Lyons, and P. Kanehl 2001. Impacts of Urbanization on Stream Habitat and Fish Across Multiple Spatial Scales. *Environmental Management*. 28(2):255-266.

³ Large areas of shoreland vegetation = two-thirds of the stream with 100 feet of stream side forest. Center for Watershed Protection. Impacts of Impervious Cover on Aquatic Systems. Watershed Protection Research Monograph No. 1, March 2003, p.12.

⁴ Johnson, A.W. and D. M. Ryba. 1992. *A Literature Review of Recommended Buffer Widths to Maintain Various Functions of Stream Riparian Areas*. King County Surface Water Division.

Nonconforming structures

Structures that are located closer than the 75 feet from the ordinary high water mark setback have the greatest potential impact on the water quality of a lake or river. Runoff from these structures quickly carries nutrients and sediments into the water body, with very little shoreland buffer area to help filter contaminants.

If our home burns down, will we be able to rebuild it?

You can rebuild any home damaged or destroyed by violent wind, vandalism, fire, flood, ice, snow, mold or infestation just as it was prior to the event.

We need to remodel our house; not expand it, just remodel the interior. Before we couldn't do what we wanted because it would go over the "50% rule." Can we remodel now?

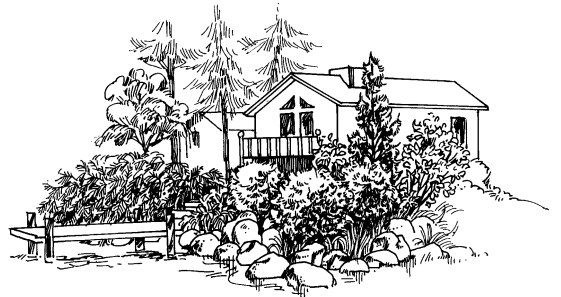
Yes. All homes can be maintained and improved with interior remodeling, new windows, doors, siding, insulation, electrical, plumbing and roofs and depending upon the county ordinance some structural improvements may also be allowed.

We would like to expand our home. How will the changes affect us?

Homes set back further from the water may be expanded to a greater extent than homes closer to the water. The proposed rule provides more flexibility for those property owners who have homes located within the setback.

Under the proposed rule a home, located in the shoreland setback but at least 35 feet from the water may

- Expand vertically within the setback
- Expand laterally one time and up to 200 sq. ft. as long as the expanded portion is no closer to the water.
- Expand vertically or horizontally beyond the shoreland setback as long as you comply with any other requirements in the county zoning ordinances, such as road or sideyard setbacks.
- Relocate or reconstruct the home as long as the home is no closer to the water.



A shoreland mitigation project will be required for any expansion of the home within the setback or relocation and reconstruction of the home.